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Dr. Mossman reviews the details of handling a screening call

What are your responsibilities after a screening call?

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Series Editor

Dear Dr. Mossman,

When I take a call from a treatment-seeker at our outpatient clinic, I ask brief screening questions to determine whether our services would be appropriate. Shortly after I screened one caller, Ms. C, she called back requesting a medication refill and asking about her diagnosis.

What obligation do I have to Ms. C? Is she my patient? Would I be liable if I didn't help her out and something bad happened to her?

Submitted by "Dr. S"

Office and hospital Web sites, LinkedIn profiles, and Facebook pages are just a few of the ways that people find physicians and learn about their services. But most 21st century doctor-patient relationships still start with 19th century technology: a telephone call.

Talking with prospective patients before setting up an appointment makes sense. A short conversation can clarify whether you offer the services that a caller needs and increases the show-up rate for initial appointments.[1]

But if you ask for some personal history and information about symptoms in a screening interview, does that make the caller your patient? Ms. C seemed to have thought so. To find out whether Ms. C was right and to learn how Dr. S should handle initial telephone calls, we'll look at:

- the rationale for screening callers before initiating treatment
- features of screening that can create a doctor-patient relationship
- how to fulfill duties that result from screening.

Why screen prospective patients?

Mental health treatment has become more diversified and specialized over the past 30 years. No psychiatrist nowadays has all the therapeutic skills that all potential patients might need.

Before speaking to you, a treatment-seeker often won't know whether your practice style will fit his (her) needs. You might prefer not to provide medication management for another clinician's psychotherapy patient or, if you're like most psychiatrists, you might not offer psychotherapy.

In the absence of prior obligation (eg, agreeing to provide coverage for an emergency room), physicians may structure their practices and contract for their services as they see fit[2]—but this leaves you with some obligation to screen potential patients for appropriate mutual fit. In years past, some psychiatrists saw potential patients for an in-office evaluation to decide whether to provide treatment—a practice that remains acceptable if the person is told, when the appointment is made, that the first meeting is "to meet each other

DO YOU HAVE A QUESTION ABOUT POSSIBLE LIABILITY?

- Submit your malpractice-related questions to Dr. Mossman at dmossman@frontlinemedcom.com.
- Include your name, address, and practice location. If your question is chosen for publication, your name can be withheld by request.

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Table 1

Telephone actions that may create a physician-patient relationship

Giving specific advice
Prescribing medication
Holding a lengthy telephone conversation with someone seeking treatment
Giving a prospective patient an appointment

Source: Reference 16

and see if you want to establish a treatment relationship."[3]

Good treatment plans take into account patients' temperament, emotional state, cognitive capacity, culture, family circumstances, substance use, and medical history.[4] Common mental conditions often can be identified in a telephone call.[5,6] Although the diagnostic accuracy of such efforts is uncertain,[7] such calls can help practitioners determine whether they offer the right services for callers. Good decisions about initiating care always take financial pressures and constraints into account,[8] and a pre-appointment telephone call can address those issues, too.

For all these reasons, talking to a prospective patient before he comes to see you makes sense. Screening lets you decide:

- whether you're the right clinician for his needs
- who the right clinician is if you are not
- whether he should seek emergency evaluation when the situation sounds urgent.

Do phone calls start treatment?

As Dr. S's questions show, telephone screenings might leave some callers thinking that treatment has started, even before their first office appointment. Having a treatment relationship is a prerequisite to malpractice liability,[9] and courts have concluded that, under the right circumstances, telephone assessments do create physician-patient relationships.

Creating a physician-patient relationship

How or when might telephone screening make someone your patient? This question doesn't have a precise answer, but how courts decided similar questions has depended on the questions the physician asked and whether the physician offered what sounded like medical advice.[10,11] A physician-patient relationship forms when the physician takes some implied or affirmative action to treat, see, examine, care for, or offer a diagnosis to the patient,[9,12,13] such as:

- knowingly accepting someone as a patient[14]
- explicitly agreeing to treat a person
- "acting in some other way such that the patient might reasonably be led to assume a doctor-patient relationship has been established."[15]

Also, the "fact that a physician does not deal directly with a patient does not necessarily preclude the existence of a physician-patient relationship,"[12] so a telephone conversation can create such a relationship if it contains the right elements. ***Table 1***[16] highlights actions that, during the course of screening, might constitute initiation of a physician-patient relationship. ***Table 2*** (***page 56***) offers suggestions for managing initial telephone contacts to reduce the chance of inadvertently creating a physician-patient relationship.

In the eyes of the law, whether a physician-patient relationship was formed depends on specific facts of the situation and may be decided by a jury.[13,14] In the case of Ms. C,

Clinical Point

A physician-patient relationship forms when the physician takes some implied or affirmative action to treat or diagnose the caller

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Table 2

Screening interview Dos and Don'ts

DO
• Explain that a first meeting is for introductions and to determine whether both parties would like to establish a treatment relationship
• Appropriately refer for treatment (if screening proves to be a poor fit)
• Carefully document any telephone conversations and scheduling of appointments
• Listen to concerns of family members of the potential patient
DON'T
• Feel pressured to prescribe medication for a person you haven't met or fully assessed
• Neglect any emergent crises conveyed during an initial screening
• Give diagnosis or patient-specific treatment information prior to full assessment
• Disclose treatment status or details to family members without a signed release

Clinical Point

If a caller is distraught, he may interpret the screener's compassion as a firmer treatment relationship than what actually exists

Dr. S might avoid premature creation of a physician-patient relationship by refraining from offering a diagnosis at the conclusion of the screening call.[17]

Prescribing

Although features of the original screening interview indicated that Ms. C was not yet Dr. S's patient, prescribing certainly would commence a physician-patient relationship.[18] But even if the screening had made Ms. C a patient, refilling her prescription now probably is a bad idea.

Assuming that a physician-patient relationship exists, it is unlikely that a short telephone interview gave Dr. S enough information about Ms. C's medical history and present mental status to ensure that his diagnostic reasoning would not be faulty. It also is unlikely that telephone screening allowed Dr. S to meet the standard of care for prescribing—a process that involves choosing medications suitable to the patient's clinical needs, checking the results of any necessary lab tests, and obtaining appropriate informed consent.[19]

Satisfying duties

Outpatient facilities can instruct telephone screeners to conduct interviews in ways that reduce inadvertent establishment of a treatment relationship, but establishing such a relationship cannot be avoided in all cases. If a caller is distraught or in crisis, for example, compassion dictates helping him, and some callers (eg, Ms. C) may feel they have a firmer treatment relationship than actually exists.

Once you have created a physician-patient relationship, you must continue that relationship until you end it appropriately.[3] That does not mean you have to provide definitive treatment; you simply need to exercise "reasonable care according to the standards of the profession."[16,20] If a caller telephones in an emergency situation, for example, the screening clinician should take appropriate steps to ensure safety, which might include calling law enforcement or facilitating hospitalization.[3]

One way to fulfill the duties of a physician-patient relationship inadvertently established during initial screening is through explicit discharge (if medically appropriate) or transfer of care to another physician.[15] A prudent clinic or practitioner will describe other mental health resources in the community and sometimes assist with referral if the inquiring potential patient needs services that the provider does not offer.

In many communities, finding appropriate mental health resources is diffi-

cult. Creative approaches to this problem include transitional psychiatry or crisis support clinics that serve as a "bridge" to longer-term services,[21,22] preliminary process groups,[23] and telepsychiatry transitional clinics.[24] When a clinic does not accept a person as a patient, the clinic should clearly document 1) key features of the contact and 2) the rationale for that decision.

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Clinical Point

If the clinic does not accept a person as a patient, document the features of contact and the reasoning for the decision

Bottom Line

You have a right and a responsibility to screen prospective patients for good fit to your treatment services. In doing so, however, you might inadvertently create a physician-patient relationship. If this happens, you should fulfill your clinical responsibilities, as you would for any patient, by helping the patient get appropriate care from you or another provider.